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BERNARD ANTOINE PANET,.....APPELLANT.

and

DANIEL ARNOLDI,.....RESPONDENT.

THE RESPONDENT's CASE.

This Appeal

originates in an Inscription *Et Moyens de faux* made by the Appellant, in the Court of King's Bench, for the District of Montreal, against a Deed of Sale of a certain Farm and Premises by the Respondent to the Appellant, duly made and executed before Thomas Barron and Henry Griffin, Esquires, Public Notaries, duly admitted for the Province of Lower-Canada, and bearing date the 29th day of August, 1815; on which Deed of Sale the Respondent had on the 27th August, 1819, instituted an action against the Appellant to recover the sum of £500 Currency, being the balance of an Instalment of the purchase money long before due, together with the interest accrued thereon.

The *Moyens de faux* which were offered by the Appellant, in the Court below, to invalidate the Deed of Sale, are two :—

1st. " Because the Allegations on the face of the Deed of Sale, of the Appellant and Respondent, the contracting parties, being present before the said Notaries at the time of passing the same, and that the said Act or Deed was made and passed at Montreal, in the Office of Mr. Barron, in the presence of the said Notaries, are false; and also that it is falsely stated in the said act that the contracting parties signed the said Act with the said Notaries, and in their presence *lecture faite*, the said Appellant alleging and offering to justify that the said Henry Griffin was not present at the passing of the said Act; but that on the contrary, the said Act was made and passed in the absence of the said Henry Griffin, but that the said Henry Griffin signed the same *En second* in the absence of the contracting parties, the said Appellant averring by the Laws in force in this Province, *the said Henry Griffin could not so sign.*

2d. " That the said Deed of Sale is false, because it is falsely alleged in the Declaration of the Respondent, that the Land sold was free of all incumbrances whatsoever, whereas on the contrary the said Appellant alleges that the said Land was at the time of passing the said Act, hypothecated for the payment of certain sums of money."

In support of the last *Moyen*, the said Appellant filed a certain claim for £149—1—4, pretended to be due to the Seminary of Montreal.

The answers to these *Moyens*, by the Respondent in the Court below, are that the two *moyens* above recited were impertinent, inadmissible and insufficient.

On the 13th of April, 1820, after every endeavour on the part of the Appellant to retard a hearing, the parties by their counsel were heard on the *Moyens de faux*; and, on the 17th of the same month, the Court below upon a point so plain concurred in opinion with the Respondent and by its judgment declared the *Moyens de faux* "*impertinens et inadmissibles*," and adjudged in consequence, that they should be rejected, condemning the Appellant to the costs. From that Judgment the present Appeal has been brought and one general reason is assigned, "*That the Judgment is contrary to Law and Practice.*" A general answer has been filed by the Respondent, and the cause now stands for hearing on the ground of Appeal mentioned.

Quebec, 24th July, 1820.